

# JUDGE'S COPY

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JACK MARRONE, husband, KAREN  
MARRONE, wife, both individually and in their  
capacity as parents and guardians for VIDA  
MARRONE, a minor, and MATTHEW ADAM  
MARRONE

Plaintiff

v.

ALLSTATE INSURANCE CO., et al.

Defendants

v.

HOMESIDE LENDING INC.

Intervenor

CIVIL ACTION

NO. 1:CV-01-0773

FILED  
HARRISBURG, PA  
JAN 22 2003  
CLERK

## INTERVENOR, HOMESIDE LENDING INC.'S PRETRIAL MEMORANDUM

Intervenor, HomeSide Lending Inc. (hereinafter HomeSide) by its attorneys,  
Harvey, Pennington, Cabot, Griffith & Renneisen, Ltd., pursuant to Local Rule of Civil  
Procedure 16.6, hereby submits its Pretrial Memorandum.

Date of Conference was held by counsel: January 13, 2003.

### A. STATEMENT AS TO FEDERAL COURT JURISDICTION

Jurisdiction in this case is based upon diversity of citizenship pursuant to 28  
U.S.C. § 1332. Plaintiffs are citizens of the State of Missouri. Defendant, Allstate Insurance  
Company, is duly incorporated in the State of Delaware, with its corporate headquarters located  
in Illinois. Defendants, Linda M. Edleman, Mt. Gretna Realty and Housemasters are citizens of  
Pennsylvania. Intervenor, HomeSide, is a Florida corporation with its principal place of business  
located at 8120 Nations Way, Building 100, Jacksonville, Florida.

**B. SUMMARY OF FACTS AND CONTENTIONS AS TO LIABILITY**

On or about August 31, 1999, plaintiffs herein (the Marrones) executed a Note and Mortgage in the amount of \$165,000.00 for a property located at 354 Timber Road, Mt. Gretna, Pennsylvania with the original mortgagee, Equity One Incorporated. Subsequently, the original mortgage was assigned to HomeSide and the assignment was recorded in Lebanon County, Pennsylvania, Book 928, Page 431 on December 6, 1999. The mortgage in question was a 7.5% fixed rate mortgage for thirty (30) years beginning on October 1, 1999 and ending on September 1, 2029.

Plaintiffs' contend that their property in Mt. Gretna was contaminated with mold and that as a result of the alleged contamination, they were forced to vacate their property on or about October 14, 2000 and moved to 11673 Highway PP, Dixon, Missouri. The last mortgage payment the Marrones made on their property was on October 1, 2000.

Since the Marrones have failed to pay their mortgage as of November 1, 2000 because of the alleged contamination of their property, on or about April 10, 2001, HomeSide filed a Mortgage Foreclosure Complaint against the Marrones in the Court of Common Pleas, Lebanon County, Pennsylvania NO. 2001-00468. Said foreclosure action has been stayed pending the outcome of the case at bar.

**C. COMPREHENSIVE STATEMENT OF UNDISPUTED FACTS**

See statement of undisputed facts agreed to by counsel at their meeting held on January 13, 2003 which is incorporated by reference herein.

**D. HOMESIDE'S DAMAGE CLAIM**

Because plaintiffs have not paid their mortgage since October 1, 2000, HomeSide has incurred the following damages in the total amount of \$202,903.59 as of January 31, 2003, pursuant to the attached payoff statement which is attached hereto as Exhibit "A." HomeSide

expressly reserves the right to introduce into evidence documentation pertaining to the losses alleged in its payout statement.

**E. WITNESS LIST**

At the time of trial, HomeSide may call the plaintiffs in their case-in-chief. In addition, HomeSide may call a corporate representative to testify in support of its damage claim: HomeSide incorporates by reference any person identified by any party to this case

**F. SUMMARY OF TESTIMONY OF EXPERT WITNESSES**

None.

**G. SPECIAL COMMENT ABOUT PLEADINGS, DISCOVERY, ETC.**

None.

**H. SUMMARY OF LEGAL ISSUES**

None as directly related to HomeSide. HomeSide incorporates by reference any legal issues asserted by plaintiffs in their property damage and/or recession claim as though set forth more fully at length herein.

**I. STIPULATIONS DESIRED**

See counsels' statement of undisputed facts.

**J. ESTIMATED NUMBER OF TRIAL DAYS**

Unknown.

**K. OTHER PERTINENT MATTERS**

None

**L. EXHIBIT LIST**

I-1 Deed between Linda M. Edleman and plaintiffs dated August 31, 1999.

I-2 Note for property located at 354 Timber Road, Mt. Gretna, Pennsylvania 17064 executed by Jack and Karen Marrone.

I-3 Mortgage between Jack and Karen Marrone and Equity One dated August 31, 1999.

I-4 Assignment of the Mortgage between Jack Marrone and Karen Marrone and Equity One in favor of HomeSide Lending, Inc. dated August 31, 1999.

I-5 HomeSide Loan Payoff Statement for the Marrone property at 354 Timber Road, Mt. Gretna, Pennsylvania 17064 (HomeSide loan #10989580) effective January 31, 2003.

I-6 All documents in support of HomeSide's Loan Payoff Statement.

HomeSide expressly reserves the right to introduce any and all documents identified by any party in this litigation in its case in chief.

**M. SPECIAL VERDICT QUESTIONS**

None.

**N. COMPLAINCE WITH LOCAL RULE 16.2**

HomeSide will have available by telephone a representative to assist the Court and counsel with any issues related to its damages claim.


O. CERTIFICATION UNDER LOCAL RULE 30.10

Not applicable to HomeSide.

Respectfully submitted,

HARVEY, PENNINGTON, CABOT, GRIFFITH &  
RENNEISEN, LTD.

BY:

  
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Attorneys for Intervenor,  
HOMESIDE LENDING INC.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Pretrial Memorandum of Intervenor HomeSide Lending Inc. was sent to all counsel listed below on the date set forth below, via first class mail, postage prepaid:

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